

## § 315.7

she recommends for a reexamination of the patient that is medically necessary.

## § 315.7 Content of advertisements and other representations.

Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.

## § 315.8 Prohibition of certain waivers.

A prescriber may not place on a prescription, or require the patient to sign, or deliver to the patient, a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified prescription.

## § 315.9 Enforcement.

Any violation of this Rule shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices, and the Commission will enforce this Rule in the same manner, by the same means, and with the same jurisdiction, powers, and duties as are available to it pursuant to the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

## § 315.10 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

## § 315.11 Effect on state and local laws.

(a) State and local laws and regulations that establish a prescription expiration date of less than one year or that restrict prescription release or require active verification are preempted.

(b) Any other State or local laws or regulations that are inconsistent with

the Act or this part are preempted to the extent of the inconsistency.

## PART 316—CAN-SPAM RULE

Sec.

316.1 Scope.

316.2 Definitions.

316.3 Primary purpose.

316.4 Requirement to place warning labels on commercial electronic mail that contains sexually oriented material.

316.5 Prohibition on charging a fee or imposing other requirements on recipients who wish to opt out.

316.6 Severability.

AUTHORITY: 15 U.S.C. 7701-7713.

SOURCE: 73 FR 29677, May 21, 2008, unless otherwise noted.

### § 316.1 Scope.

This part implements the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act"), 15 U.S.C. 7701-7713.

### § 316.2 Definitions.

(a) The definition of the term "affirmative consent" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(1).

(b) "Character" means an element of the American Standard Code for Information Interchange ("ASCII") character set.

(c) The definition of the term "commercial electronic mail message" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(2).

(d) The definition of the term "electronic mail address" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(5).

(e) The definition of the term "electronic mail message" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(6).

(f) The definition of the term "initiate" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(9).

(g) The definition of the term "Internet" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(10).